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Subject: HYDRAULIC FRACTURING: After Pacific settlements, enviros eye broader permit freeze

A follow up to the piece I sent earlier today...

HYDRAULIC FRACTURING: After Pacific settlements, enviros eye broader permit freeze

Ellen M. Gilmer, E&E reporter

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As the ink dries on legal settlements targeting hydraulic fracturing in the Pacific Ocean, environmentalists are hoping to parlay the recent deal into broader action on offshore fracking oversight.

Two environmental groups wrapped up months of negotiations with the Department of the Interior on Friday, with the agency agreeing to pause permitting for fracking in the Pacific while studying its impacts. The settlement comes after the Environmental Defense Center sued Interior in late 2014 for allegedly rubber-stamping offshore fracking and "acidizing" in the Santa Barbara Channel. The Center for Biological Diversity filed a similar suit challenging Pacific fracking in early 2015.

"This moves the ball forward by creating transparency and requiring environmental analysis of both offshore fracking and acidizing," EDC attorney Brian Segee said in an interview. "And it's never been done before. There literally has been no NEPA analysis ever that has looked at the impacts of fracking and acidizing."

According to EDC, Interior's Bureau of Ocean Energy Management and Bureau of Safety and Environmental Enforcement have routinely authorized fracking and acidizing through "categorical exclusions" under the National Environmental Policy Act -- subjecting them to simple checklist criteria rather than robust review. Environmentalists worry that the well stimulation techniques present new risks that have not been studied (*EnergyWire*, Dec. 5, 2014). According to CBD, at least 200 wells have been fracked in state and federal waters off Long Beach, Seal Beach, Huntington Beach and the Santa Barbara Channel.

Under the terms of the nearly identical settlements, both released Friday, Interior will perform a programmatic environmental assessment by May 28 and decide then whether to continue with a broader environmental impact statement. The agency will not permit any well stimulation applications in the meantime.

Segee noted that the settlements came after long negotiations and earlier attempts to avoid litigation.

"There was no friendly arrangement in this case," he said. "We tried to work with the agency prior to litigation. I think it just shows that we had a strong case, and the government knew that."

Opponents of offshore fracking say the only conclusion the agency can reach from its analysis is that the

practice is unsafe. CBD attorney Kristen Monsell told *EnergyWire* that the environmental analysis should reveal broader hazards from offshore fracking and lead to an outright ban.

"We think that this settlement is a huge victory for California's coast," she said, "and we think that when the federal government actually takes a hard look at the impacts of offshore fracking, they'll have to conclude that it's just too big of a risk for our ocean environment and just stop authorizing the process altogether."

Industry impacts

Immediate impacts of the settlements on the oil and gas industry remain unclear.

The original lawsuits attracted swift attention from industry. Seeking to protect their interests in the Pacific, Exxon Mobil Corp. joined as a defendant in the EDC case, and the American Petroleum Institute intervened as a defendant in both cases. Several of Exxon's offshore platforms targeted in the EDC case are now idled after a connected oil pipeline ruptured last year (*EnergyWire*, May 21, 2015).

In any case, Interior's environmental assessment considers only the impacts of future fracking and other well stimulation techniques. Existing operations will be unaffected by the settlements, while new permitting will be paused. Exxon and API did not sign onto the settlement agreements Friday but agreed not to oppose the motions to dismiss the cases.

Segee noted that it remains difficult to quantify how much offshore fracking is currently taking place due to inaccessible or unsearchable records, but Monsell said the industry's involvement in their lawsuits illustrates the importance of scrutinizing the process.

"Oil companies have fought tooth-and-nail against us on this, so it's pretty clear that they see a use for [offshore fracking]," she said.

In an email, an API spokesman noted that the settlements apply to "a narrow band of operations offshore California" and do not affect the Gulf of Mexico. Still, the group noted that it views the environmental assessment as an unnecessary step.

"We do not agree that additional environmental review is necessary, and we certainly do not endorse the need for yet another unjustified offshore permit moratorium," spokesman Reid Porter said in an email.

The legal filings noted that API would reserve the right to challenge "any aspect of the EA or an EIS as a separate action."

Transparency

In addition to Interior's commitment to an environmental assessment, the settlements stipulate that the agency will move toward using an electronic filing system for the Pacific region that will allow the public to track permit applications.

Environmentalists hailed the change as a critical step toward transparency in the permitting process. Significant opposition to Pacific fracking stemmed from the fact that the public was generally unaware of the practice until 2013, when an Associated Press investigation found that oil and gas companies had used hydraulic fracturing off California's coast at least a dozen times since the late 1990s.

"It's another important, incremental step because before the settlement, there was no way at all to track what permits were being issued," Segee said. "We had to use [the Freedom of Information Act] to construct initial records showing fracking and acidizing were being done."

Interior already uses a searchable online database of Gulf of Mexico well data and said it would expand that program or develop a new one for Pacific operations.

"The only way to gain any insight into the operations of the oil industry in general has been through FOIA, so hopefully this will help change that," Segee said. "This little bit of sunshine helps."

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